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OLC: 77-2596 PERS 77-2313

8 July 1977

MEMORANDUM FOR: John F. Blake  
Deputy Director for Administration

FROM: George L. Cary  
Legislative Counsel

SUBJECT: Financial Disclosure

1. As passed by the Senate, S. 555 would require all Federal employees in the grades GS-16-18 or paid according to the Executive Schedule to file financial disclosure statements which would be reviewed by a new Office of Government Ethics and made available to the public upon request. The bill exempts employees of the CIA, when the President determines that public disclosure of the report would reveal the identity of an undercover agent of the Federal Government. In this case, the financial report would be filed with the Director of Central Intelligence and not be made public.

2. The Administration's position on financial disclosure is that each employee should file a report with the head of his agency, and that the head of the agency and the Director of the Office of Government Ethics shall make provisions to assure that each report is reviewed to assure compliance with the law. The Administration would exempt from public disclosure reports filed by employees of the CIA, if the President finds that public disclosure would compromise the national interest of the Federal Government.

3. This office will seek to broaden the exemption contained in S. 555 as passed by the Senate, when the bill is considered in the House of Representatives. There are three arguments in support of our position: (a) Agency personnel rosters and organization charts are classified, and making the reports available to the public would, in effect, disclose classified information; (b) availability of financial records eases the task of identifying possible targets by those who wish to infiltrate the Agency; and (c) the CIA Act of 1949 exempts the Agency from any law which requires disclosure of organization or numbers of personnel

4. A possible compromise may be to require reports to be filed with the Director and be received by someone outside the Agency. Any such person(s) would be required to possess an Agency clearance. A major question in this regard is whether the receiver(s) would be employees of the Office of Government Ethics or come from some other organization (such as the IO's).

5. Also to be considered is the position the Agency should take concerning Executive Schedule employees. Staffers of the Senate Governmental Affairs Committee seemed to feel these reports should be made public.

6. This bill will likely be given early consideration in the House. Therefore, it is important that I receive your comments as soon as possible.

A rectangular box with a black border, used to redact the signature of George L. Cary.

*George L. Cary*

STATINTL

OLC 77-2553

22 June 1977

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with Senate Governmental Affairs  
Committee Staffers Concerning S. 555

1. On 21 June 1977, [ ] and I met with David Schaefer and STATINTL John Childers, on the staff of the Senate Governmental Affairs Committee, to discuss S. 555. The bill would require non-undercover personnel in grades GS-16-18 to file financial disclosure statements which would be made available to the public.

2. I indicated that this portion of the bill would create problems for several reasons. They are:

a. Lists of Agency personnel, such as the phone book, and outlines of the Agency structure are classified information. Releasing the financial disclosure reports to the public, in effect, discloses classified information.

b. Availability of financial records eases the task of identifying possible targets by those who wish to infiltrate the Agency. We indicated that we have no knowledge of an Agency employee being recruited, and this is partially a result of the precautions which are taken. It would be dangerous practice to ease the task of those trying to recruit Agency personnel.

c. The CIA Act of 1949 exempts the Agency from any law which requires disclosure of organization or numbers of personnel.

3. Schaefer expressed the view that the boundaries of the financial disclosure provisions are a matter of balancing. We responded that these are concerns that should be part of the balancing which they may not have considered. Schaefer also stated that as a matter of interpretation he felt this law would take precedence over the 1949 Act. Schaefer then asked if the same arguments about subverting employees could apply to any Government agency. We responded that intelligence agencies are in a unique position because of the data they handle and because we are certain they are the target of foreign intelligence organizations.

4. Childers asked what other intelligence agencies may have the same problem. We mentioned DIA and NSA, which are singled out in the bill. He then raised the question of persons paid at the Executive Schedule level, who are required to file public reports by other sections. He also asked for the number of these positions. We indicated that our objections may not be as strong in this case, and that there are probably no more than ten such positions.

5. The bill is currently scheduled to come to the floor immediately following the July 4th recess, and we indicated we would be in touch with them next week. Childers raised the following questions which should be answered before we meet:

a. Would the Agency object to a review of the disclosure statements by members of the Office of Government Ethics (which the bill establishes) who would have Agency clearances but no public disclosure of the statements?

b. What would be the status of CIA detailees to other Government organizations, including the Congress? For example, Schaefer indicated that persons detailed to Congress are subject to congressional disclosure rules.

c. What is the Administration's position? We told him that OMB had cleared our taking the initiative. Childers said, however, that Lipshutz had sent the Committee a letter outlining the Administration's problems, and that this was not included.

d. What is the Agency's position on disclosure by Executive Schedule employees? The staffers indicated that the Committee would not be receptive to suggestions of an exemption for them.



STATINTL

Office of Legislative Counsel

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### ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Legislative Counsel  
6C19 HQ

EXTENSION

6121

NO.

DATE

8 JUL 1977

TO: (Officer designation, room number, and building)

EO/DDA

DATE

RECEIVED

FORWARDED

OFFICER'S  
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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ADDA  
7D18 HQ

11 JUL 1977

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Attached is a memorandum outlining problems the Agency has with S. 555, a bill requiring financial disclosure, as it passed the Senate. In the event we are unable to get a complete exemption in the House, fallback options might include clearance of certain people in the Office of Government Ethics (in much the same way that I believe we clear people in the Civil Service Commission and elsewhere) or the submission of reports on our employees to the Intelligence Oversight Board. Please include your thoughts on these alternatives in your comments.

Also attached is a Memorandum for the Record of a meeting members of my staff had with Senate Committee staffers. The staffers have agreed to support our position in Conference Committee.

2-4:

May I have  
your comments,  
please.

B.  
AI/DDA

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